that plaintiff may show impairment of speech as a part of such injury. *Missouri, etc. R. R. Co.* v. *Hawk* (1902),—Tex. Civ. App.—,69 S. W. Rep. 1037.

By the great weight of authority, to prove any special injury it must be specially alleged. If the damages are special they must be based upon allegations in the petition, and there is much reason in holding, as some courts do, that the defendant may take the plaintiff's averments as alleged and assume all special damages to have been included: WATSON ON DAMAGES. sec. 822; *Shadock* v. *Alpine Plank Road Co.* 79 Michigan, 7. AM. AND ENG. ENCYC. LAW, VIII. 544; ENCYC. PLEAD AND PRAC. V. 719-723. Formerly where the petition contained allegations in such general terms as that the plaintiff was rendered sick and physically disabled, many diseases that would not necessarily result from the injury were admitted in evidence. *Ehrgott* v. *Mayor*, 96 N. Y. 264; *Beath* v. *Rapid R. R. Co.*, 119 Mich. 512; *Babcock* v. *St. Paul R. R. Co.* 36 Minn. 147; *Tobin* v. *Fairport*, 12 N. Y. Supp. 224. Under special allegations courts have been unusually lax in admitting evidence of injuries, of which the petition would in no wise give the defendant notice: *West Chicago R. R. Co.* v. *Levy*, 182 Ill. 525, 55 N. E. 554; *Tyson* v. *Booth*, 100 Mass. 258; *Gulf R. R. Co.* v. *McMannewitz*, 70 Tex. 73; *Baltimore R. R.* v. *Slanker*, 77 Ill. App. 567. This practice has been limited by many courts and a stricter compliance with the rules of pleading and logic of the law insisted upon. That the plaintiff should be limited to his petition and such injuries as it gives notice of to defendant, is reasonable and fast gaining ground: *Gulf R. R. Co.* v. *Warlick*, (Ind. Ter. 1896), 35 S. W. 235; *Kleiner* v. *Third Ave. R. R. Co.*, 162 N. Y. 193, 56 N. E. 497; *Heister* v. *Loomis*, 47 Mich. 16, 10 N. W. 60; *Baldwin* v. *R. R. Corporation*, 4 Gray 333; *Kuhn* v. *Freund*, 87 Mich. 545; *Stevens* v. *Rodger*, 25 Hun., 54; SEDGWICK ON DAM., secs. 1265-1271; MAYNE ON DAM. 6th Ed. 575—578.

DEED—ACKNOWLEDGMENT.—The certificate of acknowledgment stated that the deed of James M. Barclay was produced by the said John L. Barclay and acknowledged to be his act and deed *Held* that the certificate of acknowledgment was sufficient to entitle the deed to record, and hence it was not error to admit the deed in evidence. *Kentucky Land Co* v. *Crabtree* (1902), —Ky—, 70 S. W. Rep. 31.

The court said, "it was the purpose of the clerk to certify the deed so as to entitle it to record." When he said it had been acknowledged by the "said" Barclay, we must hold that he referred to the person who had actually signed the deed, and whose name appeared thereto and that the words "John L." are but a mistake in the transcript. A Minnesota case held that a mortgage signed "Wm. Schrieber" and acknowledged "Wm. Strieber," was properly admitted in evidence, the presumption being that the variance in spelling the name was a clerical error. *Rodes* v. *Elevator Co.*, 49 Minn. 370. To the same effect, see, *Heil* v. *Redden*, 45 Kan. 562. But in an early Michigan case, a deed signed "Harmon S" and acknowledged "Hiram S." was held inadmissible in evidence to prove a conveyance by "Hiram S," without proof that the person was known by both names. The Texas court held that a deed signed "T. W. C." and acknowledged F. W. C. was not duly registered, hence not admissible in evidence. *Carleton* v. *Lombardi*, 81 Tex. 355. This view was sustained by *McKenzie* v. *Stafford* (1894),—Tex. Civ. App.—, 27 S. W. Rep. 790.

ELECTIONS—BALLOTS—RIGHTS OF NOMINEE TO HAVE HIS NAME APPEAR MORE THAN ONCE UPON THE BALLOT.—A California statute forbidding the name of a nominee to appear more than once upon the official ballot, provided that in case of nomination by more than one party, the candidate must

elect under which party designation he desired his name to appear; that in case of his failure to so elect, the secretary of state should place the name under the designation of the party first filing a certificate of nomination, in which latter case the words "no nomination" should be printed in the spaces so left vacant. In an application for mandamus against the secretary of state, *Held*, that the statute was unconstitutional. *Murphy* v. *Curry* (1902),—Cal.—,70 Pac. Rep. 461.

This statute, in the judgment of the court, "treated political parties and nominees unjustly and partially, denying the equal protection of the laws, and aiming an unwarranted blow at a vital principal of our republican form of government." Substantially similar statutes have been sustained in Michigan, Wisconsin and Ohio. *Todd* v. *Commissioners* (1895), 104 Mich. 474, 62 N. W. 564, 64 N. W. 496, 29 L. R. A. 330; *State* v. *Anderson* (1898) 100 Wis. 523, 76 N. W. 482, 42 L. R. A. 239; *State* v. *Bode* (1896), 55 Ohio St. 224, 45 N. E. 195, 34 L. R. A. 498. The only difference between the statute of these states and the one involved in the principal case seems to be that the latter required the words "no nomination" to be printed in the spaces left blank, thus involving the telling of an untruth, while in the former this was simply ignored. The California court, however, reject this possible ground of distinction, and take issue squarely with the conclusions reached in the three cases and with the weight of authority. The Wisconsin court refused to recognize party fealty and sentiment as subjects of constitutional care, and held that in case of the nomination of the same candidate by two parties, it is to be supposed that there is but one platform of principles, and that, the voter having the opportunity to vote for the candidate of his choice, there is no unjust discrimination. The principal case goes farther and holds that rights of parties and their nominees are involved. It argues that a party has a right to nominate whom it sees fit, and the nominee a corresponding right to have his name appear on the ballot as the nominee of that party. That by adopting the Australian ballot system, and assuming to convey to the voter, through its agency, the information that the candidate is the nominee of at least one party, the legislature recognized the existence of political parties, and that from that moment it became the duty of the state to be as exact and fair to political parties and their nominees as to the voters.

All the above statutes were attempted regulations of the elective franchise. That such regulations must be reasonable, uniform and impartial, see Cooley on Constitutional Limitations, 6th edition, 753. It is in the application of the rule that the courts differ. The constitutionality of a statute like that in the principal case cannot be tested by the fact that the voter must make more than one mark. *Todd* v. *Commissioners*, supra. Any such inequality arises not from the statute, but by reason of inequality in the persons of the voters. *State* v. *Bode*, supra.

EQUITABLE INTERESTS—ASSIGNABILITY.—The residue of an estate was given by will in trust "to pay over the net income thereof to my daughter Mary during her life * * * at such times and in such sums as my trustees may deem judicious," with remainder to the University of Virginia. The income thus given to the daughter amounted to about $15,000 a year; and the daughter executed a deed purporting to convey to the University of Virginia all the surplus over $5,000 a year. On petition by the trustees for instructions as to the validity of the assignment; *Held*, valid. *Endicott* v. *University of Virginia* (1902), — Mass. — , 65 N. E. Rep. 37.

The court said: "The whole income is given to the daughter. The provision that it shall be paid in such sums and at such times as the trustees deem judicious in no way cuts down or limits the absoluteness of the